

### REMARKS

Claims 1-10 are pending in the application.

Claims 1-10 stand rejected.

Claims 1 and 5 have been amended to clarify applicant's claimed invention. Claims 1 (method) and 5 (apparatus) also includes a supplemental phrase "that is a restricted bandwidth" following the term "a setting bandwidth" for the purpose of clarification.

As described in paragraph [0004] of the Specification, "a setting bandwidth" is a bandwidth such as a contract bandwidth which is secured for a packet transmission and set in an apparatus based on a contract detail such as a packet communication class.

In view of the claim clarifications it is respectfully requested the objections to claims 1 and 5 for informalities should be withdrawn.

Claims 1-2 and 5-6 are rejected under 35 U.S.C. § 102(b) as anticipated by Esaki (U.S. 5,132,964). Claims 3-4 and 7-9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Esaki.

Applicant's claims 1 and 5 include at least the features of controlling a read start timing of the held packet according to a line bandwidth, a setting bandwidth that is a restricted bandwidth, and the packet length.

In applicant's claimed invention is used to describe the length of each variable length packet.

Esaki describes generating and transmitting a dummy packet when an amount of queue packets exceeds a predetermined threshold value "A" until the amount of the queue packets becomes smaller than a predetermined threshold value "B".

However, Esaki fails to disclose the functions of a read controller “controlling a read start timing of the held packet according to a line bandwidth, a setting bandwidth that is a restricted bandwidth, and the packet length” as claimed in claims 1 and 5.

It is noted that Esaki uses the term “packet length,” however in Esaki it means the quantity of data packets held in the buffer. This is different from applicant’s claimed invention where the term “packet length” is used to describe the length of each variable length packet.

Therefore, as recited in applicant’s claims 1 and 5 at least the controlling functions are not disclosed nor suggested by packets in excess of a setting bandwidth never occurs, not even temporarily. Because Esaki fails to teach each and every claimed feature it is respectfully requested the rejections be withdrawn.

In claims 3 and 7 the Office Action argues that performing flow control only on a subscriber side would have been obvious to one skilled in the art. However the claimed invention is not simply performing flow control. The claimed invention includes the features of controlling a read start timing of the held packet according to a line bandwidth, a setting bandwidth that is a restricted bandwidth, and the packet length. The Esaki reference fails to teach these features. Because there is not suggestion of these features in the reference and because there is a unique combination of features including the control and the control only on the transmission side applicant’s disclosure is clearly being used as a roadmap to arrive at this rejection.

It is submitted that there is not suggestion for the combination of features and applicant cannot judge the validity of the obviousness rejection since to reference was provided which suggests the features. If such features are obvious then a reference should be provided in order to judge the assertions.


Likewise, in claims 4 and 8 the Office Action asserts performing the method between a MAC layer processing a physical layer process would have been obvious to one skilled in the art. However the claimed invention includes the features of controlling a read start timing of the held packet according to a line bandwidth, a setting bandwidth that is a restricted bandwidth, and the packet length. The same argument above is reasserted here and if such features are obvious then a reference should be provided in order to judge the assertions.

Claim 10 is rejected under 35 U.S.C. § 103(a) as unpatentable over Esaki in view of Yamaguchi (U.S. 6,487,211). This rejection should likewise be withdrawn for at least the arguments presented with regard to claim 5.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,

  
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